



INTERIOR BOARD OF INDIAN APPEALS

Menominee Tribal Enterprises v. Acting Deputy Commissioner of Indian Affairs

9 IBIA 186 (03/03/1982)

Denying reconsideration of:
9 IBIA 141



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

MENOMINEE TRIBAL ENTERPRISES,
Appellant

v.

ACTING DEPUTY COMMISSIONER
OF INDIAN AFFAIRS,
Appellee

: Order Denying Petition for
: Reconsideration
:
:
: IBIA 81-18-A
:
:
: March 3, 1982

ORDER

On February 1, 1982, appellant Menominee Tribal Enterprises, through counsel, filed with the Board of Indian Appeals a "Motion for Reconsideration" of its decision dated December 22, 1981, holding that petitioner's attorney contracts were required by law to be approved by the Secretary of the Interior. Appellant's motion is treated as a petition for reconsideration pursuant to section 4.315 of rules published at 46 FR 7336 (Jan. 23, 1981).

Petitioner alleges that the Board committed "gross error" when it found that petitioner's attorney contracts required Departmental approval pursuant to the provisions of 25 U.S.C. § 476 (1976). In support of the petition to reconsider, petitioner has filed a brief arguing that petitioner is a legal entity separate from the Menominee Tribe and urges that under the holdings in Atkinson v. Haldane, 569 F.2d 151 (Alaska 1977) and Parker Drilling Co. v. Metlakatla Indian Community, 451 F. Supp. 1127 (D.C. Alaska 1978), the separation of the petitioner from the tribal organization relieves petitioner from the requirements of 25 U.S.C. § 476 (1976) concerning approval of attorney contracts. These same arguments were made to the Board, considered, and rejected by its decision issued December 22, 1981, at 9 IBIA 141, 144.

Petitioner's arguments ignore the discussion in footnote 2 to the Board's decision at 9 IBIA 144. Petitioner's argument is misdirected, since it merely challenges the Board's conclusion concerning the relationship of petitioner to the Menominee Tribe without furnishing citation to authority allegedly overlooked by the Board indicating that the Board erred as a matter of law or referring to facts inconsistent with the Board's conclusion concerning the relationship of the Menominee tribal organizations and the legal consequences flowing therefrom.

Under the Board's rules, the filing of a petition for reconsideration is unnecessary to exhaust administrative remedies before the Department. The

decision of December 22, 1981, was final when issued. The matters set forth in the petition for reconsideration having been previously considered by the Board and rejected for reasons set forth in the Board's decision of December 22, 1981, are again found to be without merit.

Petitioner's petition for reconsideration is denied.

//original signed

Franklin D. Arness
Administrative Judge

//original signed

Wm. Philip Horton
Chief Administrative Judge

//original signed

Jerry Muskrat
Administrative Judge